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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/520,491

04/07/2005

Martin Hellsten

PST6366P1US

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27624

7590

02/28/2008

AKZO NOBEL INC.

INTELLECTUAL PROPERTY DEPARTMENT

120 WHITE PLAINS ROAD 3RD FLOOR

TARRTOWN, NY 10591

EXAMINER

METZMAIER, DANIEL S

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/520,491	Applicant(s) HELLSTEN ET AL.	
	Examiner Daniel S. Metzmaier	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 Jan.; 07 Feb. & 07 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/7/2005</u> . | 6) <input checked="" type="checkbox"/> Other: <u>Encl.: Copy of Priority Doc SE 0202198-8 7/15/2002.</u> |

DETAILED ACTION

Claims 1-6 and 8-16 are pending.

Priority

1. The examiner has obtained the papers in this national stage application from the International Bureau (PCT Rule 17.2(a)), submitted under 35 U.S.C. 119(a)-(d), which papers have been forwarded for scanning to be placed of record in the file.

Specification

2. The abstract of the disclosure is objected to because the abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. The abstract provided is the first page of the WO document and should be presented separately on a separate sheet.

Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-6 and 8-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 8 and 11 (all independent claims pending) set forth a concentration of (a), (b) and (c) at 50-400 ppm in water having an electrolyte content of 0.01-7% by weight. Components (a) and (b) are amphoteric surfactants and thus inherently have a charge. Component (c) is an anionic surfactant inherently has a charge. Components

(a), (b) and (c) are considered organic electrolytes. It is unclear whether the concentration of the electrolytes referred in the claims includes the components (a), (b) and (c); which inherently read thereon.

Claims 4 and 14 are further indefinite because it is unclear how the weight percentage of the double bonds is determined and/or what the weight percentage of the double bonds is based.

Claim interpretation

5. Reference is made to the citation to the USGS, "EXPLANATION OF HARDNESS", wherein it is clear that moderately hard water, hard water and very hard water have electrolytes of 100 ppm or greater calculated as CaCO_3 .

It is noted that the electrolyte concentration and the concentrations of (a), (b), and (c) overlap. It is therefore proper for a reference that employs (a), (b), and/or (c) at concentrations reading on the electrolyte concentrations to conclude that said reference meets the electrolyte concentration limitation based on said (a), (b), and (c) concentrations.

Since component (b) is not required in the independent claims, *i.e.*, set forth at 0-70% by weight, R_2 as set forth in claims 3, 4, 13 and 14 carries no patentable weight for compositions that do not require component (b).

Other names for lauryl sulfate or lauryl sulfonate are dodecyl sulfate or dodecyl sulfonate, respectively.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 3-6, 11 and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Hellsten et al, US 5,902,784. Hellsten et al (column 2, lines 28 et seq) discloses drag reducing agents comprising the combination of anionic sulfates and sulfonates with betaine surfactants having the structure set forth as formula (I), wherein R is the group $R'NC_3H_6-$ and R' (column 3, lines 6-19) is set forth as an acyl group having 14-16 carbon atoms for use in cooling media at 30° C or below and an acyl group having 18 carbon atoms or more, preferably 18-22 and 1 or 2 double bonds for heat-transfer medium at temperatures in the range of 50-120° C.

Hellsten et al (abstract; column 2, line 52; and claims) discloses the ratio of the betaines to the anionic surfactants at 20:1 to 1:2, preferably 10:1 to 1:1. Said ratios clearly and substantially overlap the claimed concentrations of (a) and (c).

Hellsten et al (column 3, lines 14-16 and example 1) disclose the mixtures will tolerate hard water and electrolytes, which may be added and exemplifies the use of extremely hard simulated sea water.

Hellsten et al (column 3, lines 24-27) discloses the surfactants (betaine and anionic) are employed at 0.1-10 kg/m³ (100-10,000 ppm).

The instantly claimed formulas employed in the claimed combinations and/or solutions are clearly envisaged in the Hellsten et al reference. The concentrations of the surfactants inherently read on the electrolyte concentrations as claimed as organic electrolytes. Hellsten et al further teaches the application of the surfactant combinations to hard water and simulated sea water, which reads on applicants' claimed electrolyte concentrations.

Claim Rejections - 35 USC § 103

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 1-6 and 8-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hellsten et al, US 5,902,784.

Hellsten et al (column 2, lines 28 et seq) discloses drag reducing agents comprising the combination of anionic sulfates and sulfonates with betaine surfactants having the structure set forth as formula (I), wherein R is the group $R'NC_3H_6-$ and R' (column 3, lines 6-19) is set forth as an acyl group having 14-16 carbon atoms for use in cooling media at 30° C or below and an acyl group having 18 carbon atoms or more,

preferably 18-22 and 1 or 2 double bonds for heat-transfer medium at temperatures in the range of 50-120° C.

Hellsten et al (abstract; column 2, line 52; and claims) discloses the ratio of the betaines to the anionic surfactants at 20:1 to 1:2, preferably 10:1 to 1:1. Said ratios clearly and substantially overlap the claimed concentrations of (a) and (c).

To the extent the Hellsten et al reference differs from the claims as not clearly envisaged or disclosed with sufficient specificity, it would have been obvious to one of ordinary skill in the art at the time of applicants' invention to employ the betaine and anionic surfactant combination for their advantageous use as drag reducing agents taught in the Hellsten et al reference. The variation of the optimal concentrations is clearly obvious and within the level of one having ordinary skill in the art at the time of applicants' invention for the advantage of reducing drag taught in the Hellsten et al reference.

To the extent the Hellsten et al reference differs from the claims in the combination of betaines having a C₁₄₋₁₆ acyl group with betaines having a C₁₈₋₂₂ acyl group, it would have been obvious to one of ordinary skill in the art at the time of applicants' invention to employ mixed betaines and anionic surfactant combination for their advantageous use as drag reducing agents taught in the Hellsten et al reference having a broad temperature application. The variation of the optimal concentrations for their taught temperature application is obvious and within the level of one having ordinary skill in the art at the time of applicants' invention for the advantage of reducing drag taught in the Hellsten et al reference at particular temperature applications.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. It is noted, Hellsten et al, US 5,902,784, is of the same patent family as Applicants' citation WO 96/28527.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Metzmaier whose telephone number is (571) 272-1089. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David W. Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Daniel S. Metzmaier/
Primary Examiner, Art Unit 1796

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